

12-21-1984

Information Report On City of Portland Charter Amendment Requiring One Year City Residence for Elective Office (City of Portland Measure 51)

City Club of Portland (Portland, Or.)

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Recommended Citation

City Club of Portland (Portland, Or.), "Information Report On City of Portland Charter Amendment Requiring One Year City Residence for Elective Office (City of Portland Measure 51)" (1984). *City Club of Portland*. Paper 391.
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Information Report on
CITY OF PORTLAND CHARTER AMENDMENT REQUIRING ONE YEAR CITY RESIDENCE
FOR ELECTIVE OFFICE

(City of Portland Measure 51)

Question: "Shall the City Charter be amended to require candidates for elective office to be city residents one year before nomination?"

Explanation: "The Charter presently requires an elected official to have been a city resident for 'not less than three years immediately preceding the beginning of his term.' A federal court has ruled that a three-year durational residency requirement is unconstitutional. This amendment would shorten the requirement to 'one year immediately preceding the nominating election.' For candidates residing in newly annexed areas, annexation must occur before their declaration of candidacy or petition for nomination is filled."

I. INTRODUCTION

This measure was submitted to the voters by the Portland City Council as a result of a court case that struck down the City's three-year residency requirement. A vote on the amendment will be held on Tuesday, December 18, 1984, concurrent with a runoff election for Council Position #4. If this amendment, or a subsequent proposal, is not approved by the voters, any citizen of the United States will be eligible to be a candidate for City elective office by registering to vote and establishing City residency on the day he or she files.

The proposed amendment would also require that annexation of property to the City occur before time of filing in order for a resident of that area to become a City candidate. The present provision could allow a candidate to receive the necessary votes for nomination, only to be disqualified because a planned annexation did not occur on schedule.

II. HISTORY AND BACKGROUND

The three-year residency requirement for elected officials was established by the City Charter of 1903. A 1903 provision was eliminated in 1913 and added back in 1962 to allow three-year residents of areas newly-annexed to the City to serve as elected City officials.

On September 28, 1984, a suit was filed against the City on behalf of William Deiz, who wished to file for Council Position No. 4 for the 1985-88 term. On the advice of the City Attorney, City Auditor Jewel Lansing refused to accept the Deiz filing because his residency had not been continuous during the preceding three years.

A hearing was held before U.S. District Court Judge Owen M. Panner the same day the suit was filed. He issued a temporary restraining order against the City, allowing Deiz to file for the position. On Oct. 2, the City Attorney and attorneys representing Deiz filed a consent decree with the court stipulating that the three-year requirement was unconstitutional. The City Attorney's research had indicated that the three-year residency period would probably not be upheld by the court based on judicial decisions in other jurisdictions.

On Oct. 24, City Auditor Jewel Lansing introduced a charter amendment resolution which was approved by Council without debate. The amendment sets a one-year period of required residency from the date of the nominating election. These provisions were based on analysis of what courts have generally found to be a reasonable length of time, and dates from which residency has been calculated in these cases.

On Oct. 25, Judge Panner signed a judgment order and decree finding Section 2-202 of the City Charter "unconstitutional under the Constitution of the United States of America and the State of Oregon." He ordered the City not to enforce against Deiz or anyone else the residency requirement in Section 2-202.

III. DISCUSSION

If the amendment is passed, the language requiring residency "one year immediately preceding the nominating election" would effectively change the required residency period from three years to slightly more than a year and a half before the beginning of the term. (Except in cases of vacancies, candidates are nominated at the May primary election.)

If the proposed amendment fails, current charter language would require candidates to be City residents at the time of filing. For other than special elections, this would be a period of about 9 months before the term begins.

Arguments in favor of the longer residency focus on the presumed community values and experience acquired by candidates during an extended period of residency. The voters' recent approval of a City Charter amendment requiring new City employees to become City residents and the exposure given to residency issues during the most recent statewide election campaigns are cited as evidence of public support for strong residency requirements.

On the other hand, arguments in favor of a shorter term of residency for candidates focus on the perceived need to provide as many qualified candidates as possible. Those arguments were recently summarized in an Oct. 29, 1984 editorial by The Oregonian. The editorial states, "A one-year requirement, for example, could deny someone like Charles Jordan...the right to seek city office here if he chose to move back to seek election."

Respectfully submitted,
GOVERNMENT & TAXATION STANDING
COMMITTEE

Note: Because this report carries no conclusions or recommendations, no official action is required of the membership.

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